

Approved: Courtney Heavey
Courtney Heavey
Assistant United States Attorney

Before: THE HONORABLE JUDITH C. MCCARTHY
United States Magistrate Judge
Southern District of New York

- - - - - x 19mag 3305
UNITED STATES OF AMERICA : COMPLAINT
- v. - : Violation of
PHILLIP HESTER, : 18 U.S.C. § 922(g)(1)
Defendant. : COUNTY OF OFFENSE:
WESTCHESTER
- - - - - x

SOUTHERN DISTRICT OF NEW YORK, ss.:

Jeremy Dellapia, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation and charges as follows:

COUNT ONE
(Felon in Possession)

1. On or about April 2, 2019, in the Southern District of New York, PHILLIP HESTER, the defendant, after having been convicted in a court of a crime punishable by imprisonment for a term exceeding one year, knowingly did possess in and affecting commerce a firearm, to wit, a Taurus, Model 709 Slim pistol, 9mm caliber, serial number TK055361 (the "Firearm"), which had previously been shipped and transported in interstate and foreign commerce.

(Title 18, United States Code, Section 922(g)(1).)

The bases for my knowledge and for the foregoing charge are, in part, as follows:

2. I am a Special Agent with the FBI. I have been personally involved in the investigation of this matter. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with law enforcement agents, as well as my examination of reports and

records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part.

3. On or about the morning of April 2, 2019, law enforcement officers from the Peekskill Police Department responded to a call in the vicinity of the Crossroads Apartment Complex at Brown Street and South Broad Street in Peekskill, New York (the "Buildings"). In connection with this investigation, on or about April 3, 2019, law enforcement officers from Peekskill Police Department interviewed a witness ("Witness 1"), who was present at the Buildings on the morning of April 2, 2019. I have reviewed a copy of the report of the interview of Witness 1. Based on my review of the report, I have learned the following:

a. Witness 1 was walking in the vicinity of the Crossroads Apartment Complex at Brown Street and South Broad Street in Peekskill, New York (the "Buildings") at around 11:15 AM, on April 2, 2019.

b. Witness 1 observed two males walking in the parking lot of the Buildings. One man was an African American male with large afro hair, wearing a light jacket with some red on it, and the other was a light skinned African American or Hispanic male, wearing an all red jacket.

c. Witness 1 observed the man in the all red jacket carrying what appeared to be a gun in his right hand, as it was extended down his side.

d. Witness 1 observed the two males go to the back of a van in the parking lot of the Buildings, and it appeared that the two males were fumbling around with something.

e. Witness 1 observed the two males then walk away from the van and the man in the all red jacket put the gun in his waistband.

4. In connection with the investigation, Peekskill Police Officers interviewed a second witness ("Witness 2"). I have reviewed a copy of the report of the interview of Witness 2. Based on my review of the report, I have learned the following:

a. Witness 2, who was standing in the vicinity of the Building parking lot around 11:00 AM on April 2, 2019, observed a young African American male, wearing a red jacket and walking fast in the vicinity of the Buildings. Witness 2 observed that the individual was holding what appeared to be a black gun in his right hand.

b. Witness 2, saw the man in the red jacket meet with another young African American male, with big afro hair in the vicinity of the parking lot of the Buildings.

c. Witness 2 saw the young male with afro hair then walk across the parking lot of the Buildings and throw a black object underneath a parked van. Witness 2 saw a black gun by the van and alerted the police officer who had arrived on the scene.

5. I participated in an interview of a third witness, who was present at the Buildings on the morning of April 2, 2019 ("Witness 3"). Based on my interview of Witness 3, I have learned in substance and in part, the following:

a. On or around the morning of April 2, 2019, he was with PHILLIP HESTER, the defendant, in the parking lot of the Buildings. Witness 3 observed something black in HESTER's hand. Witness 3 then observed a black handgun on the bumper of the van where he was standing with HESTER. Witness 3 had not previously seen the gun on the bumper and HESTER no longer had the black object in his hand.

b. Witness 3 heard police sirens, HESTER pointed to the gun and said "the police."

c. Witness 3 knew that HESTER was on probation, so he grabbed the gun from the bumper and walked back towards South Broad Street. Witness 3 continued to another parked car, where he threw the gun under the car as police arrived.

6. Law enforcement obtained video surveillance recorded in the vicinity of the Buildings on April 2, 2019 around 11:00 AM. I have reviewed the video surveillance. The video surveillance shows, among other things, the following:

a. A young man in a red jacket, who I later identified as PHILLIP HESTER, the defendant, walked into the parking lot of the Buildings.

b. HESTER later met in the parking lot of the Buildings with another African American man, with large afro hair, who I later identified as Witness 3.

c. HESTER and Witness 3 walked to a van parked in the parking lot of the Buildings. Thereafter Witness 3 walked in the direction of Brown Street and South Broad Street. Witness 3 then threw a dark object under a van in the parking lot.


7. Based on my review of surveillance footage, my personal observation of PHILLIP HESTER, the defendant, on April 2, 2019, and my conversations with law enforcement, I believe HESTER to be the man in the red jacket observed that Witness 1 and 2 observed carrying a gun in the parking lot of the Buildings, for the following reasons: HESTER is African American; he was wearing a red jacket when police officers detained him in the vicinity of the Buildings around 11:15 AM; and Witness 3, who knows HESTER by name, stated that he was with HESTER in the parking lot of the Buildings on the date and time of Witness 1's and 2's observations.

8. Based on my conversations with Peekskill police officers as well as my review of Peekskill Police reports, I have learned that when officers were at the Buildings on or about the morning of April 2, 2019, they recovered a black, Taurus, Model 709 Slim pistol, 9mm caliber, serial number TK055361 (the "Firearm") under the van in the parking lot of the Buildings.

9. Based on my review of records from law enforcement databases, the Firearm was manufactured outside of New York State.

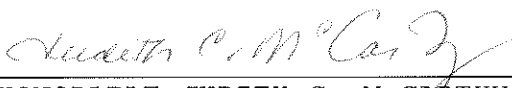
10. I have reviewed criminal history records pertaining to PHILLIP HESTER, the defendant, and learned that HESTER was convicted of two felony offenses punishable by imprisonment for more than one year. First, on or about, March 9, 2018, in Westchester County Court, New York, HESTER was convicted of Attempted Criminal Possession of a Weapon in the Second Degree, in violation of New York Penal Law § 265.03. Second, on or about September 6, 2018, in Westchester County Court, New York, HESTER was convicted of Attempted Assault in the Second Degree, in violation of New York Penal Law § 120.05.

WHEREFORE, deponent respectfully requests that PHILLIP HESTER, the defendant, be arrested, and imprisoned or bailed, as the case may be.



Jeremy Dellapia
Special Agent
Federal Bureau of Investigation

Sworn to before me this
3rd day of April, 2019



THE HONORABLE JUDITH C. MCCARTHY
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK